frequently been held that silence or delay constitutes no waiver if capable of other explanation, *Gray* v. *Blanchard,* 8 Pick. 292; *Burlington, etc. R. Co.* v. *Boestler,* 15 Iowa 559; *Selwin* v. *Garfit,* 38 Ch. D. 284.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—INDETERMINATE SENTENCE LAW.—The plaintiff in error was convicted of a felony, and sentenced, under the indeterminate sentence law of Michigan (Pub. Acts 1903, No. 136), to prison for a term of not less than one year or more than two years. At the end of the minimum term of his sentence, the pardon board refused to discharge him on parole, because it appeared that he had twice before been convicted of a felony, and the act provides that no person, who has been twice previously convicted of a felony, shall be eligible to parole. After the expiration of the maximum term named in the sentence, being still detained in prison under the claim that the law provided a maximum term of imprisonment of five years in such cases as his, which term had not yet elapsed, the plaintiff applied to the Supreme Court of Michigan for a writ of habeas corpus to obtain his discharge, and his application was denied. *Held,* that he is not imprisoned without due process of law, or denied the equal protection of the laws. (HARLAN, J., dissents). *Charles Ughbanks* v. *A. N. Armstrong, Warden of the State Prison at Jackson, Michigan* (1908), 28 Sup. Ct. Rep. 372.

The indeterminate sentence law of Michigan is valid. *In re Campbell,* 138 Mich. 597. Where the statute fixes the maximum penalty, the fixing of the maximum by the court, is surplusage. *In re Duff,* 141 Mich. 623. Such an act does not violate any provision of the Federal Constitution. *Dreyer* v. *Illinois,* 187 U. S. 71. The refusal of the pardon board to hear the prisoner's application for parole, violates no provision of the United States Constitution, for the Michigan Court has held that the granting of a parole in certain cases is not a right, but a mere favor. *People* v. *Cook,* 147 Mich. 127. It does not violate the fourteenth amendment, because that amendment does not limit the power of a state in dealing with crime committed within its borders, or with the punishment thereof. *Maxwell* v. *Dow,* 176 U. S. 581; *In re Kemmler,* 136 U. S. 436; *Caldwell* v. *Texas,* 137 U. S. 692. As to the claim of the plaintiff in error, that the act of 1905 (Pub. Acts Mich. 1905, No. 184) repealed the act of 1903, and being ex post facto, did not apply to his case, and, therefore, that he was held without any statutory authority, the Michigan court has held that the act of 1905 did not affect sentences already pronounced and in process of execution. *In re Manaca,* 146 Mich. 697; See, 5 MICH. LAW REV. 469. This decision is binding on the Federal courts. *Peik* v. *Chicago & N. W. R'y Co.,* 94 U. S. 164.

CONSTITUTIONAL LAW—CORPORATIONS—FOREIGN CORPORATIONS—EXCLUSION FOR REMOVAL OF CAUSE TO FEDERAL COURTS.—The plaintiff railroad corporations sue to enjoin the Secretary of State of Missouri from revoking their license to do business in Missouri. A statute provides that the Secretary of State shall revoke the license if the foreign corporation remove a case to the Federal Court. The railroad companies have invested heavily in the state,

and property rights are involved. *Held,* that the statute is unconstitutional, (1) because a contract relation exists between the corporations and the state, which is impaired; (2) because it deprives the corporations of a right under the Constitution of the United States and the Acts of Congress, *Chicago, R. I. & P. Ry. Co.* v. *Swanger* (1908), — C. C., W. D., Mo. —, 157 Fed. Rep. 783.

In regard to state statutes, which require as a condition precedent to the right of a foreign corporation to do business in the state, a stipulation that the right of removal will not be exercised, the law is well settled, that such a statute, and such a stipulation, is void. *Home Ins. Co.* v. *Morse,* 20 Wall. 445, 22 L. Ed. 365; *Barrow* v. *Burnside,* 121 U. S. 186, 7 Sup. Ct. 931, 30 L. Ed. 915; *Tex. Land, etc. Co.* v. *Worsham,* 76 Tex. 556, 13 S. W. 384; *Baltimore, etc. Ry. Co.* v. *Cary,* 28 Oh. St. 208; *Hartford Ring Assur. Co.* v. *Pierce,* 27 Oh. St. 155. See also, *Rece* v. *Newport News, etc., Co.,* 32 W. Va. 164, 9 S. E. 212, 32 L. R. A. 572. On the other hand, it has been consistently held by the United States Supreme Court, that the federal courts will not interfere with the revocation of a license to do business under a statute such as the one in the principal case, making it the duty of the Secretary of State to revoke the license if the foreign corporation removes a case to the federal court. *Doyle* v. *Continental Ins. Co.,* 94 U. S. 535, 24 L. Ed. 148; *Security Ins. Co.* v. *Prewitt,* 202 U. S. 246, 26 Sup. Ct. 619; *State* v. *Doyle,* 40 Wis. 175, 22 Am. Rep. 692. But see *Com.* v. *East Tenn. Coal Co.,* 97 Ky. 238, 30 S. W. 608. While the principal case would seem to fall squarely within the principle enunciated in the *Doyle* case, it has this important difference, upon which the judge relies. The *Doyle* case applies to an insurance corporation, and the principal case to a railroad corporation, which has made valuable investments in Missouri and has vested property rights. The Court in the principal case says that thereby a contract relation has arisen between the State and the foreign railroad corporation, which is impaired by the Statute. The contract and property rights involved distinguish it from the *Doyle* case. The distinction seems a strong and reasonable one, and it is to be hoped the case will be taken to the Supreme Court for final settlement. The tendency to find a contract relation between a state and foreign corporations is growing. *Am. Smelting Co.* v. *Colorado,* 204 U. S. 103, 27 Sup. Ct. 198, 51 L. Ed. 393; *Seaboard Air Line Ry. Co.* v. *Commission,* 155 Fed. 792. 6 MICH. LAW REV. 258. See further on statutes restricting removal to federal courts, THOMPSON ON CORPORATIONS, Vol. 6, §§ 7466-7467. 5 MICH. LAW REV. 58.

CONSTITUTIONAL LAW—POWERS OF CONSTITUTIONAL CONVENTION.—The President of the Michigan Constitutional Convention petitioned for mandamus to compel the Secretary of State to take the necessary steps to submit to the people at the next November elections, the revised Constitution, as provided by the Constitutional Convention. The respondent denied the power of the Convention to fix a date other than that provided by the Legislature, which had provided that the Constitution should be submitted at the April election. *Held,* that the writ should issue. (HOOKER, McALVAY